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6 DOMESTIC VIOLENCE TASK FORCE VIRTUAL MEETING

7 February 22, 2022

8 Held via Webex

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11 PRESENT:

12 Anna Barbara Hantz Marconi, Associate

13 Justice, New Hampshire Supreme Court

14 Susan Carbon, Circuit Court Judge

15 Diane Nicolosi, Superior Court Judge

16 John Yazinski, Circuit Court Judge

17 Mary Barton, Clerk, Circuit Court

18 Merrill Beauchamp, Director, Victim &

19 Witness Program

20 Kathy Beebe, Executive Director, HAVEN NH

21 Kristyn Bernier, Investigator, Belknap

22 County Attorney's Office

23 Steven Endres, Assistant County Attorney,

24 Merrimack County

25 Martha Ann Hornick, Grafton County



1 Attorney

2 Mary Krueger, Attorney, NHLA

3 Lynda Ruel, Director, Office of

4 Victim/Witness Assistance, NH DOJ

5 Scott Hampton, Director, Ending the

6 Violence

7 David Hobbs, Hampton, NH Association of

8 Chiefs of Police

9 Lyn Schollett, Executive Director, New  
10 Hampshire Coalition

11 Amanda Grady Sexton, Director of Public  
12 Affairs, New Hampshire Coalition

13 Jon Strasburger, New Hampshire  
14 Association of Criminal Defense Attorneys

15 David Vicinanzo, Attorney, DOVE Program

16 Patricia LaFrance, Attorney, The Black  
17 Law Group

18 Betsy Paine, Attorney, CASA NH

19 Pam Dodge, NHBA DOVE Program & 603 Legal

20 Sarah Freeman, Circuit Court

21 Administrator

22 Jean Kilham, Manager, NHJB Domestic  
23 Violence Program

24 Erin Jasina, Director, NHLA DV Program

25 Anne Zinkin, Supervisory Law Clerk, NHSC



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1 JUSTICE HANTZ MARCONI: Welcome  
2 back, Task Force. I hope you guys all  
3 got some rest while you were not having  
4 these Zoom meetings, Webex meetings.

5 The working group, together with  
6 various volunteers on various charges --  
7 some more than one, thank you very  
8 much -- have come up with the document  
9 that we circulated Friday. And since  
10 that time, I've gotten two submissions  
11 for edits and comments.

12 We set a deadline of tomorrow, so  
13 there may be more coming. But at this  
14 point in time, we've got two so far -- I  
15 mean, two comprehensive reviews, if you  
16 will. One, the Coalition circulated  
17 theirs earlier today. The other one  
18 hasn't been circulated to the group yet.  
19 It is from folks in the branch. So we've  
20 got some tweaks and edits to language and  
21 wording.

22 What we've been doing with feedback  
23 from the working groups and sounding  
24 boards that have been participating in  
25 the drafting is working through the



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1 suggested changes, trying to figure out  
2 where the suggestions fit in the  
3 comprehensive review, if you will, and  
4 the comments that people have been  
5 making.

6 For example, we have learned a lot  
7 through this process, where information  
8 and perspective from one participant may  
9 sort of conflict a bit with information  
10 and assertions from another participant.  
11 We are a committee of the whole. We are  
12 not the branch task force. We are not  
13 the task force of any particular group.  
14 That's why we have such a broad  
15 combination of folks sitting here, trying  
16 to capture all the various perspectives  
17 of people who live and work in this  
18 space.

19 So what we've done previously is  
20 work through comments and suggestions to  
21 try to come to common ground. I would  
22 like to be able to do that with the  
23 submissions that we've received from  
24 those individual interested parties, if  
25 you will, and then circulate another



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1 "final draft" for everybody's review. So  
2 that's sort of the way we've been  
3 rolling, thus far.

4 This meeting was set up just so we  
5 can answer questions, find out if anyone  
6 has concerns about the process, and  
7 basically, just try and tie up loose  
8 ends. So I am all ears.

9 MR. VICINANZO: Justice Marconi,  
10 Dave (ph.) Vicinanzo. I feel that the  
11 draft is -- I really want to commend all  
12 the hard work that has gone into this  
13 draft. And to everybody on the committee  
14 and to your leadership, I think that's  
15 been fantastic.

16 I did want to point out, in  
17 particular, though, how much I  
18 appreciated Lyn Schollett's comments  
19 earlier today and her ideas and thoughts  
20 for edits. I read through them, and I  
21 kept thinking, I wish I'd thought of  
22 that. That's a great idea.

23 And not only did she provide a lot  
24 of substance, but I do feel like the  
25 atmospheric that Lyn is suggesting is



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1 helpful to the report. And I can't help  
2 but note -- and while we're all doing our  
3 best here and very candid about things,  
4 we all know what the genesis of this  
5 committee was and the very unfortunate  
6 events.

7 And I want -- I really feel like we  
8 all have an interest in avoiding any sort  
9 of atmospheric of defensiveness or that  
10 there's any sort of inhibition on our  
11 ability to kind of self-examine what  
12 happened. And I felt that Lyn did a  
13 really good job of kind of fleshing that  
14 out. And I felt sort of liberated when I  
15 read through it. I can't be a whole lot  
16 more specific to that, but I really felt  
17 that it was a significant contribution to  
18 the work product.

19 JUSTICE HANTZ MARCONI: Good. I  
20 know that also, counter from that, there  
21 is -- we all know why we're here. There  
22 is a lot of information that is floating  
23 around in the public sphere. Some of it  
24 is accurate; some of it is not. And I  
25 think that has put a bit of a caution to,



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1 again, everyone's -- we all want to be  
2 transparent, and we all want to be open  
3 in this proceeding.

4 Obviously, it is an open proceeding,  
5 and the public and everybody else is  
6 watching us. But I think to my way of  
7 thinking and to what the context of our  
8 report can't draw conclusions that  
9 aren't -- or can't make assumptions that  
10 aren't fully vetted or perhaps may be  
11 less than accurate. So I think that's  
12 the realm in which we operate. So I  
13 appreciate that.

14 MR. VICINANZO: No, I agree with  
15 you. But I think the suggestion of  
16 looking to what other states are doing --

17 JUSTICE HANTZ MARCONI: Yeah.

18 MR. VICINANZO: -- I always think  
19 that's a great -- there's fifty great  
20 states out there, and every one of them  
21 is a learning lab. And --

22 JUSTICE HANTZ MARCONI: Right.

23 MR. VICINANZO: -- we should be  
24 looking there. I think the idea of  
25 collecting data, that's a -- it's bold,



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1 but you know what? If we're interested  
2 in solving issue -- solving problems and  
3 making things better, that's one of the  
4 first things you do. So I thought that  
5 was a very good suggestion.

6 JUSTICE HANTZ MARCONI: Right. And  
7 those are things -- I mean, obviously,  
8 from the get-go -- and I think I told  
9 everyone when we started, feed us stuff;  
10 put it in the Dropbox. I'm sure there  
11 are other best practices. There are  
12 other things that states do.

13 Again, one caution: some states  
14 have elected judge positions. They work  
15 in a different realm. So those decisions  
16 need to be vetted by a committee beyond  
17 this one. You know what I mean? What's  
18 good in some state may or may not work  
19 here because of the differences in the  
20 systems in which they work.

21 The good can be taken away, which is  
22 why -- and then the things that don't  
23 work left behind, which is why our  
24 challenge -- which I appreciate everyone.  
25 When you signed up, I said it would be a





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1 short-term commitment. It is because we  
2 aren't the group that's moving it forward  
3 to evaluate what of those other things.

4 So to the extent we can point the  
5 diversity committee, to the extent we can  
6 appoint the committee that's statutorily  
7 dictated to review judicial performance,  
8 to other tools, I think that's really,  
9 really helpful.

10 What we can't do is decide which  
11 tool is best because we just don't -- we  
12 haven't had that -- well, we haven't had  
13 that charge, and we certainly don't have  
14 the information to make that decision.  
15 So absolutely, I think the new ideas, so  
16 to speak, are great, and they need to be  
17 couched within those limits. So yes.

18 INV. BERNIER: Justice Marconi, if I  
19 could kind of dovetail on that, I read  
20 what Lyn had done. And I had looked at a  
21 lot of the things. And when I signed up,  
22 when I said yes to this, one of the  
23 things that I wanted to avoid, which I  
24 believe we've -- a lot of people have  
25 done a lot of great work, and it's been



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1 open conversations and people being very  
2 involved, and it's been a wonderful  
3 experience. I'm glad I did it. The  
4 group has been transparent, and I think  
5 everybody wants the same thing.

6 But one of the things that I was  
7 really -- that I promised myself is that  
8 I didn't want this to end up being  
9 something that was a -- I always call it,  
10 like, the feel-good legislation, when put  
11 something out there that kind of just  
12 placates. And I'm not suggesting that  
13 this does at all.

14 One of the things, though, that I  
15 keep going back to is the piece in the  
16 report, if I can pull it up. It was on  
17 page 20 that I keep going back to, which  
18 essentially says a judge with that  
19 understanding could have engaged in a  
20 different legal analysis; could  
21 permissibly have found that R.L. posed a  
22 credible present threat, even though  
23 there was no recent act of physical  
24 violence.

25 So essentially, the report that came



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1 out of the incident involving what  
2 brought us here, essentially, at the end  
3 of the day, said that two judges with the  
4 same information could essentially come  
5 up with completely different decisions at  
6 the end of the day.

7 And that sticks with me the most out  
8 of this, in that when we have that type  
9 of a situation and you have judges that  
10 can follow the letter of the law and can  
11 do things properly, with regard to how  
12 they deal with the participants and the  
13 paperwork and all those other things, but  
14 looking at the facts in two different  
15 lights that could lead them to different  
16 legal analysis.

17 That was really what stuck with me  
18 in terms of wanting that transparency,  
19 which is what the public wants, that  
20 accountability in making sure that we  
21 can't have that type of decision, that  
22 there's got to be some type of very  
23 specific oversight with regard to DV  
24 orders and DV petitions so that we don't  
25 end up in this situation, because that --



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1 in my line of work, that's a real --  
2 that's a real problem.

3 If I go to a scene and I see X, Y,  
4 and Z, and I make a decision it's this,  
5 and another officer sees those same  
6 things and does a completely separate  
7 thing, that's a problem, which is why we  
8 have standards and oversight and evals  
9 and those things.

10 So I think that's the biggest thing  
11 for me is that I want to walk away from  
12 this knowing that what we do, at the end  
13 of the day, gets us -- may not solve that  
14 problem but at least tackle that issue  
15 that two different judges cannot look at  
16 the same fact pattern and see something  
17 different.

18 JUSTICE HANTZ MARCONI:  
19 Unfortunately -- and I mean, certainly,  
20 there are ways to -- and this task force  
21 was looking at ways to improve the system  
22 so that people are better served, if you  
23 will. But I know -- I mean, the U.S.  
24 Supreme Court takes up issues where the  
25 circuits are divided.



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1           You have this in all walks of life.  
2           Unless you have mandatory sentencing  
3           requirements -- and even then, there is  
4           judicial discretion in evaluating the  
5           law, credibility. They don't always --  
6           it's like that old trope about people  
7           seeing -- different eyewitnesses seeing  
8           different events on the ground.

9           So I hear that there should be some  
10          consistency, but that consistency, again,  
11          cookie-cutter application doesn't always  
12          result in just results either. So  
13          certainly, helping people understand is  
14          one thing. But requiring -- I think it  
15          might be difficult to arrive at a place  
16          where you can predict the outcome before  
17          you head into court. I mean, that would  
18          be -- that might be nice in a lot of  
19          situations. But I hear what you're  
20          saying.

21          MS. SCHOLLETT: Everybody, it's Lyn  
22          from the Coalition. Thank you to those  
23          of you who have worked so hard on the  
24          drafting -- I want to echo everybody  
25          else's comments on that -- and also those



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1 who read our feedback this afternoon.

2 And Justice Hantz Marconi, I'm glad  
3 you mentioned doing a check-in about --

4 JUSTICE HANTZ MARCONI: I'm having a  
5 little bit of -- you have the Kathy Beebe  
6 disease now.

7 MS. SCHOLLETT: Oh. Someone else  
8 go. Let me check my settings.

9 JUSTICE HANTZ MARCONI: Okay. Try  
10 it again. Maybe it's me.

11 MR. VICINANZO: Can't hear you, Lyn.

12 JUSTICE HANTZ MARCONI: Does anyone  
13 else --

14 MS. ZINKIN: Lyn, you're on mute.  
15 You muted yourself.

16 MS. SCHOLLETT: Okay. Going to try  
17 again. Is that better?

18 JUSTICE HANTZ MARCONI: That's  
19 better, yes.

20 MS. SCHOLLETT: Okay. Thanks.

21 MR. VICINANZO: There we go.

22 MS. SCHOLLETT: Sorry. I got into  
23 my settings. So I wanted to first thank  
24 everybody who's worked so hard on the  
25 drafting, because obviously, this has



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1       been a heavy lift. And thanks to the  
2       folks who read our feedback today.

3               I wanted to say to Justice Hantz  
4       Marconi, I'm really glad you mentioned  
5       process, because that was one of the  
6       issues that we wanted to raise as well.  
7       I think we all had hopes, coming into  
8       this task force, for the direction we  
9       could go and how we could bring our  
10      strengths and expertise to the table.  
11      And I think one of the things that we're  
12      hoping that comes out of it is a report  
13      that does reflect the varying voices and  
14      varying experiences of task force  
15      members.

16             And we've been providing feedback  
17      this afternoon. Thanks. A lot of back  
18      and forth with Anne. And I think what I  
19      just keep staying focused on is the  
20      charge to this task force, which was to  
21      do a systemic review of cases, with, as  
22      Kristyn just pointed out, a goal toward  
23      improving outcomes.

24             And I really think we can do that.  
25      And so we're just strongly advocating for



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1 a lot of the recommendations to be a big  
2 voice, to be as directive as possible,  
3 recognizing that we're multidisciplinary,  
4 recognize that we don't have sort of an  
5 enforcement mechanism of any kind, but we  
6 can come together as leaders in this  
7 state and say, these are things we can do  
8 to improve the accessibility of this  
9 system and to improve safety for victims.

10 And I really think the ones that we  
11 can focus on most is doing a deep dive  
12 into information we already have access  
13 to and analyzing that information around  
14 outcomes.

15 So I hear what you're saying, in  
16 terms of we can't promise consistent  
17 outcomes in court cases. And at the same  
18 time, I think, if we're really going to  
19 create a system that is usable by victims  
20 who maybe don't have an advocate and  
21 don't have a lawyer, that looking for as  
22 much consistency in that process is very,  
23 very helpful. So thank you.

24 JUSTICE HANTZ MARCONI: Well, and I  
25 think -- I agree. I think, as Judge





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1 Nicolosi indicated, a really terrific  
2 petition goes a long way to setting the  
3 stage for a fair outcome. And so to the  
4 extent that that paperwork side of  
5 things, the guided interview business --  
6 I do think we're all on the same page.

7 At least from what we've collected  
8 from the discussions, I think we're all  
9 focused on the same thing, providing  
10 judges with the information they need,  
11 providing victims with the safety and  
12 security that they need, and providing,  
13 of course, a fair playing field for the  
14 defendants. I mean, that's sort of the  
15 world in which we operate in.

16 Is there any other thought about  
17 putting this together, assuming we can  
18 get there, and getting it issued? Like I  
19 said, we'll continue these discussions.  
20 I am, frankly, pretty hopeful, having  
21 seen the recommendations that have come  
22 back in thus far. Assuming nothing  
23 major, by tomorrow, I think we're going  
24 to have the report that we're looking  
25 for.



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1 MS. LAFRANCE: Can I just ask -- we  
2 came up with this great report, a lot of  
3 good recommendations. I mean, what is  
4 the commitment from the people who can  
5 make the changes? I mean, do we have  
6 any -- what I got out of the public  
7 hearing was more training, more money.

8 Okay. Well, great, but especially  
9 the legislature being what it is now,  
10 what are the chances of getting more  
11 money out of this legislature? I mean,  
12 everybody -- when this initially  
13 happened, everybody was like, oh my God,  
14 we've got to do this; we've got to do  
15 that. Well, when push comes to shove,  
16 are we going to have what we need to  
17 implement this?

18 I don't see a further commitment  
19 here, even from -- I just reviewed the  
20 order establishing this task force.  
21 Nothing in that order said, and we will  
22 follow the recommendations, or we will  
23 take steps to implement. All it said  
24 was, we're going to take a really good  
25 look at this. And task force, I think we



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1 did our job. But --

2 JUSTICE HANTZ MARCONI: Yes.

3 MS. LAFRANCE: -- what's the further  
4 commitment here? Maybe we should make a  
5 stronger statement and call on  
6 legislators or whoever. This needs to be  
7 done. If you're really serious about  
8 this, this needs to be done, put some  
9 oomph behind our findings.

10 JUSTICE HANTZ MARCONI: Well, I  
11 think two things come to mind. And  
12 believe me, this is something I've  
13 struggled with from the get-go. We are  
14 a -- we're an offshoot. We aren't the  
15 branch. We're kind of an ad hoc  
16 committee to actually, frankly, issue-  
17 spot and provide some suggestions, which  
18 will give people a pathway to "do their  
19 jobs."

20 So yes, I mean, this report will be  
21 presented to the branch, and the branch  
22 will be able to have a response. We also  
23 make recommendations to the governor. I  
24 don't know about you, but I'm not in a  
25 position to exactly tell him, although



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1 the public focus on this report will  
2 certainly allow for follow-up to the  
3 governor's office and also to the  
4 legislature.

5 And the one thing that has struck me  
6 from the beginning is there are --  
7 there's an awful lot of firepower in and  
8 on this task force, with organizations  
9 that exist outside of the task force.  
10 And so to have this report have a  
11 recommendation in it that then allows for  
12 follow-up by current standing  
13 organizations, I think, is a tool.

14 Task force is going to go away. But  
15 the members and the stakeholders and the  
16 agencies that do have that ability are  
17 going to persist. So hopefully, this  
18 collaboration will cause those folks who  
19 are aligned in their viewpoints or  
20 policy-setting roles to get together and  
21 push it, which is not something that  
22 everybody on the task force is able to do  
23 because of our various constraints. So  
24 that's what made it a little neither fish  
25 nor fowl.



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1 But certainly, these recommendations  
2 provide a path forward. For example,  
3 when the branch goes for funding, when  
4 the Coalition goes for more grant  
5 funding, when NHLA is setting up its  
6 policies and processes, we now have  
7 something to stand on. That's the way I  
8 see it.

9 MS. SCHOLLETT: So I wonder --  
10 that's an interesting point that you  
11 raise, Justice Hantz Marconi. And I  
12 don't usually speak on the fly, but I'm  
13 just sort of thinking through this right  
14 now.

15 Is there a way for this group to  
16 come back together in six months or  
17 twelve months and do a check-in on the  
18 status of the recommendations? Again, I  
19 understand it's not with an enforcement  
20 mechanism, but I think it would be really  
21 interesting and helpful to have a follow-  
22 up around some of the big themes like  
23 transparency and accountability and  
24 things like that. Is that something the  
25 task force would ever consider?



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1 JUSTICE HANTZ MARCONI: I don't know  
2 if our charge lets us do that, but I  
3 certainly -- we could certainly get back  
4 together and chat. But I think the real  
5 call to action is going to be from here  
6 forward, and I don't know what we would  
7 accomplish by getting back together and  
8 finding out that the legislature wouldn't  
9 do anything, except that we can all  
10 complain to each other. But it may be  
11 because they haven't received a good  
12 proposal, or who knows?

13 I can certainly look into it. But I  
14 know from our initial gathering together  
15 and the charge we have, our job's over at  
16 this point. But I don't see -- again,  
17 speaking on the fly, I don't have a  
18 problem convening an ad hoc committee in  
19 a year from now or six months or  
20 whatever. But I do think our job was to  
21 provide a roadmap for those who are, as I  
22 call it, in the space.

23 What we were able to do -- and I do  
24 think, again, this has been a big  
25 learning process for me as well. And



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1 again, as the outsider, I think a lot of  
2 communication broke down.

3 And certainly, the Governor's  
4 Commission on Domestic Violence was a  
5 place for collaboration. And so I almost  
6 see that as a replacement for this. We  
7 were pulled together to figure out why  
8 there were so many -- again, a lack of  
9 communication is my biggest takeaway.  
10 And I think that should be  
11 institutionalized, and that's not this  
12 group. But that's just me.

13 INV. BERNIER: Justice, is it -- I  
14 know there were a number of -- and I had  
15 a great interaction with Judge Yazinski  
16 over the firearm issue. And I work with  
17 a number of different people on different  
18 things.

19 There are a lot of recommendations  
20 and great ideas that have come up with  
21 this that don't necessarily cost money,  
22 and things like forms, things like that  
23 interview, that -- the weapon issue, in  
24 terms of merging what law enforcement is  
25 doing and judges so that we're all on the



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1 same page and we're following through  
2 with that stuff.

3 Is there going to be an opportunity,  
4 if people want to be involved with moving  
5 some of those things forward, wherever  
6 the mothership is that looks at this and  
7 makes decisions, is there going to be an  
8 opportunity for us to stay on board with  
9 some of this stuff and be involved in  
10 helping implement some of those things  
11 that we're working, say, with the  
12 Coalition and with regard to legislation?

13 I know I would absolutely commit to  
14 that, on a number of fronts. I'm sure  
15 there are others here that would do it as  
16 well. But I wasn't sure what that was  
17 going to look like, moving forward.

18 JUSTICE HANTZ MARCONI: Right. I  
19 think there are going to be different  
20 entities. I've learned some of them  
21 already. We have recommendations for  
22 having county-based sort of collaborative  
23 groups, whether those are it. We've got  
24 that annual -- and I'll get the name  
25 wrong, but the thing that Erin either





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1 hosts or provides feedback from, the  
2 statewide group.

3 So I think there are other -- and  
4 there may well be a group spawned to look  
5 at the firearms issue. But again, I  
6 think it's going to be on a -- it's kind  
7 of why the charges are the way they are,  
8 on an issue-by-issue basis, not one  
9 central committee doing -- unless  
10 standing committee and the branch, I'm  
11 sure -- and it's part of our  
12 recommendation -- will be looking for  
13 input from interested folks in the  
14 stakeholder group, if you will.

15 So I do see that there is that  
16 opportunity, going forward.

17 MS. JASINA: I would encourage  
18 anyone who's interested in being a part  
19 of the statewide Domestic Violence  
20 Advisory Council to reach out to me.  
21 It's --

22 JUSTICE HANTZ MARCONI: That's the  
23 thing I was trying to figure out.

24 MS. JASINA: Many of you are already  
25 members and have been members for quite



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1 some time. But we meet quarterly, and  
2 it's something that NHLA facilitates and  
3 convenes. And I'd be happy to talk to  
4 anyone who wants more information about  
5 it or who would like to be a part of it.

6 We discuss legislation. We do a  
7 court watch, anything that is positively  
8 or negatively impacting victims and  
9 survivors. So just feel free to send me  
10 an email.

11 And I will also say that I know we  
12 all put in so much work to this report,  
13 and we could probably write five  
14 different reports, all equally great but  
15 maybe with different perspectives. But  
16 we were just always having this March 1st  
17 looming deadline over us. And I think  
18 that we did the best that we could under  
19 the time constraints.

20 But as many of you have already  
21 said, I think it's really -- this may be  
22 the end of the task force, but it's  
23 really just the beginning of the work.  
24 We've identified so many things that  
25 needs improvement, or we could just start



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1 an entirely new project or different  
2 initiatives.

3 And I am personally committed to  
4 seeing some of these things through that  
5 are -- that NHLA can be involved in. I  
6 look forward to working with many of you  
7 into the future and pushing some of these  
8 things forward.

9 But the report itself is not what's  
10 going -- it will be available, and it  
11 will be -- the public will have access to  
12 it, but I don't think it's the thing  
13 that's going to live on from this group.  
14 I think it's the work that we do after  
15 this and the collaboration that we all do  
16 after this that's really going to make  
17 the difference.

18 And that's not to say that you all  
19 haven't put in amazing work. And Anne  
20 has just done an incredible job putting  
21 this report together. It's been really  
22 impressive to see. But I think it's  
23 going to be what we do after this that is  
24 going to make the real difference. And I  
25 just hope we can all think about that and



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1 push that agenda forward.

2 JUSTICE HANTZ MARCONI: And I do see  
3 a question from Kristyn about the DV  
4 Fatality Review Committee. It does still  
5 exist. So I guess the question is -- and  
6 someone answered -- looks like they're  
7 looking to tweak that. But it does  
8 continue to do its thing and reports  
9 annually to the -- wherever they post  
10 their report. So it is still ongoing.

11 But that is one thing, I think, that  
12 is of value to the work that's been done  
13 is identifying these various pieces of  
14 work that some exist and some have been  
15 dormant. And so getting everything back  
16 in focus, I think, is really helpful.

17 MS. PAINE: And to the extent, I  
18 think, that we can include the executive  
19 branch and the legislature, those were  
20 critical components in prior work that we  
21 did with the Governor's Commission. And  
22 it took sort of all three branches to  
23 make some of the changes happen and for  
24 people to really dig deep.

25 And there are a number of issues



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1 here that are a question of political  
2 will and money. And even the data piece  
3 is a function of political will and  
4 money.

5 As was noted long ago, the Odyssey  
6 system is a case-management system, not  
7 an information-management system. And  
8 its ability to do data reporting is  
9 incredibly limited by the programmers  
10 themselves. And everything you want to  
11 do in addition to pull things out costs a  
12 great deal of money now.

13 We bought what we bought when we  
14 bought it, and we tried to tell them at  
15 that time what we wanted and what we  
16 thought we were going to want for a  
17 decade ahead. And we knew when we made  
18 those choices that we were going to live  
19 with them for a very long time.

20 And we spent the money the best way  
21 we knew how when we did it, but I would  
22 certainly say that that accountability  
23 piece really requires good information.  
24 And adding to our ability to collect that  
25 information is significant and expensive.



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1 JUSTICE HANTZ MARCONI: And it's  
2 good to know that this is not unique to  
3 domestic violence. The diversity  
4 initiative is looking for data. The  
5 Access to Justice Commission is looking  
6 for data. So the limitations on Odyssey  
7 are painfully apparent.

8 That does not stop independent  
9 review. You can pull down cases and do  
10 your own digging through files. But  
11 again, that takes time and money. So  
12 there are workarounds that independent  
13 agencies can do with the data that's  
14 available.

15 And there's the other side of the  
16 coin, which is having ready data at our  
17 fingertips in the branch. And that is,  
18 at some times, limited by hardware. I  
19 wish we were the feds, but we aren't. We  
20 don't have their budget.

21 MS. FREEMAN: I would also say and  
22 add to what Betsy said, it's also a  
23 function of the cost to have staff time  
24 to devote to adding that information into  
25 Odyssey. So if we're looking at the



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1 cost, it's the cost of upgrade to  
2 software and the cost of increased staff  
3 time. And so there is a cost to these  
4 things, even if it's not apparent at  
5 first.

6 JUSTICE HANTZ MARCONI: Right. And  
7 so when there have been prior  
8 initiatives -- again, I see Kristyn's  
9 comment to everybody about UNH being a  
10 source. That is so. And in fact, there  
11 was just an initiative, I believe, grant-  
12 funded, to do some diversity surveying in  
13 the Bar Association. So again, the  
14 resources are there, but they aren't  
15 free.

16 So not making excuses, but that is  
17 a -- getting data is a -- well, is a  
18 multifaceted issue. Again, you can  
19 still -- I mean, the good thing about  
20 domestic violence cases is it's a finite  
21 set. And if somebody had the bandwidth  
22 to pull down copies of all the orders,  
23 there would be a data set. So there are  
24 different ways to approach the issue. I  
25 guess that's the point.



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1 Any other thoughts, comments,  
2 perspectives, input, dissatisfaction,  
3 satisfaction?

4 MR. STRASBURGER: Justice Hantz  
5 Marconi, I just wanted --

6 JUSTICE HANTZ MARCONI: Yes.

7 MR. STRASBURGER: -- to dovetail  
8 with respect to the fact that the data  
9 collection and sort of our limitations on  
10 that involves greater than just DV cases,  
11 as you've already identified. And I  
12 think that's important to the  
13 transparency that we've been talking  
14 about and trying to figure out solutions  
15 to address consistency.

16 But I have some concerns about some  
17 of the proposed edits to the sort of -- I  
18 guess I'll call it judicial  
19 accountability or judicial review  
20 section, because we are here to focus on  
21 DV matters.

22 But if we start getting into an  
23 ability for individual litigants to sort  
24 of escalate, to administrative judges,  
25 results in a particular case, I think





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1 that's also going to affect the other  
2 areas of the law that the court has to  
3 adjudicate and really could fundamentally  
4 change our process.

5 Right now, the judicial officers  
6 make those decisions on a case-by-case  
7 basis, and we have an appellate review  
8 process. And we don't have elected  
9 judges in New Hampshire.

10 And it's a little bit concerning to  
11 me that if the committee seems to support  
12 what I would say is a pretty significant  
13 overhaul of the judicial review process,  
14 then we might be getting to that point,  
15 where individual litigants who might be  
16 unhappy, either because they just don't  
17 understand the process, maybe, or they  
18 just may disagree with the court's  
19 analysis in their particular case, if  
20 they can start to get an audience with an  
21 administrative judge and there is data  
22 collected about how many particular  
23 judges are granting domestic violence  
24 petitions or denying domestic violence  
25 petitions, I just have a concern that



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1 that would be a -- have a potential, at  
2 least, to be a pretty significant  
3 overhaul to our fundamental  
4 Constitutional process here.

5 So I just wanted to point that out.  
6 I completely favor the report and the  
7 recommendations with respect to charge 7,  
8 as drafted. And I definitely hear Lyn's  
9 concerns about transparency and getting  
10 the data and having a mechanism to follow  
11 up on that.

12 But I would just be very concerned  
13 about giving a process by which aggrieved  
14 litigants could take a case-by-case basis  
15 to an administrative judge or some other  
16 review process. I just think that that  
17 has a potential to be somewhat dangerous  
18 for our system.

19 JUSTICE HANTZ MARCONI: And I can  
20 say that I've -- again, I've struggled  
21 with this. I think I've said it to  
22 anyone who would listen. Data is data,  
23 as we all know. Just look at the  
24 political situation today.

25 But in term -- it can be as simple



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1 as how many petitions granted or denied.  
2 It can also be Andy Smith at UNH with a  
3 detailed regression analysis of what the  
4 claims were, who the -- I mean, it  
5 doesn't tell you anything if you're just  
6 adding up numbers.

7 So that's why in our discussions,  
8 while there's agreement on improving  
9 transparency and the review provisions  
10 haven't been reconstituted in many years,  
11 maybe there is a better way to do the  
12 review process within the confines and  
13 restrictions that we have.

14 And that's what the recommendations  
15 are sort of geared toward, having the  
16 committee that does the review take a  
17 look and see if there's a better  
18 mousetrap at this point in time, as  
19 opposed to when the survey system was  
20 developed, with input from the talking  
21 heads who knew that business thirty years  
22 ago.

23 So I agree that that is -- you don't  
24 want to create problems where -- in  
25 trying to solve problems, I guess, is



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1 that point, which is why it really  
2 deserves a more considered review than  
3 we've been able to give it here.

4 MS. ZINKIN: I think Jon is raising  
5 a really good point, at least the way I'm  
6 understanding it, which is our current  
7 system is there's trial courts, and if  
8 you're not happy with what happened in  
9 the trial court, you appeal to the  
10 Supreme Court. We don't have an  
11 intermediate appellate court. There  
12 isn't another mechanism to complain about  
13 what happened in your case, other than by  
14 appeal.

15 And what I'm hearing you say is if  
16 the report says there should be some  
17 other mechanism, then that's changing our  
18 system in a really big way. At least,  
19 that's what I'm hearing, I think.

20 MR. STRASBURGER: Well, I'm going to  
21 thank Anne because she articulated that  
22 much more artfully than I did. But that  
23 is exactly the message I was trying to  
24 convey.

25 And I'm not suggesting that that's



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1 what's been proposed. But some of the --  
2 some of the revisions look like that  
3 could be an implication of what the task  
4 force is suggesting, that there is some  
5 large overhaul necessary.

6 And I'm just concerned about sending  
7 that message because we do have a system  
8 with an appellate process, and we don't  
9 have an intermediary appellate court,  
10 just as you said, Anne. And from my  
11 perspective, an aggrieved party, that's  
12 their sole remedy. I mean, obviously, if  
13 they feel there's been a judicial conduct  
14 violation, there's already a -- there's  
15 already an avenue for that to be  
16 resolved.

17 So that was my concern. And thank  
18 you, Anne, for saying that much more  
19 artfully than I did.

20 MS. SCHOLLETT: Well, I'd love to  
21 just -- oh. I've spoken. Go ahead. Was  
22 that Steve or someone else?

23 MR. ENDRES: Sorry, Lyn.

24 A slightly different perspective to  
25 that, though, is that this is an



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1 adversarial system. And for lack of a  
2 better term, there's winners and losers.  
3 And you tend to have people who, perhaps,  
4 are losers who are upset about the  
5 process and are going to complain about  
6 it.

7 Whether they have an avenue to  
8 complain or not isn't going to stop them  
9 from complaining. So if they're upset,  
10 they're still going to try and contact  
11 the administrative judge. They're going  
12 to contact the press. They're going to  
13 talk to whomever will listen to them and  
14 complain about the process.

15 While I agree that sort of keeping  
16 data isn't the be-all and end-all, I  
17 don't necessarily think that that data  
18 has to be publicly available. But I  
19 think it's worth knowing what the data is  
20 so that you can look at it and see if we  
21 have a problem.

22 And I think, in terms of -- to take  
23 it out of, like, the domestic violence  
24 world and put it in, for example, like, a  
25 driving while intoxicated world, if you



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1 have a judge who finds ninety-nine  
2 percent of people guilty of DWI, and you  
3 have another judge who finds, say, twenty  
4 percent of people guilty of DWI, you  
5 don't necessarily know that you have a  
6 problem, but you know that maybe you  
7 should look into that.

8 And perhaps the judge that only  
9 finds a very small percentage of people  
10 guilty of DWI is seeing cases from police  
11 departments that over-charge or don't do  
12 a good job in their investigations. And  
13 maybe the judge who finds many people  
14 guilty of DWI has very squared-away  
15 police departments who only bring very  
16 strong cases.

17 But it's at least worth knowing that  
18 or at least having a basis to look into  
19 that, which to me, is the second step.  
20 So the data collection, to me, is really  
21 trying to figure out is there a problem  
22 with judicial accountability, not  
23 necessarily as a solution to it, but at  
24 least a jumping-off point to say, should  
25 we look closer at this.



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1 JUSTICE HANTZ MARCONI: Right. And  
2 that gets into my what are the factors.  
3 I think of prosecutors who don't bring a  
4 case if there's a problem with it.  
5 You're going to plead it out or do -- so  
6 your win-loss record may be sort of  
7 artificially impacted. Judges get  
8 everything, so the good, the bad, the  
9 ugly.

10 So collecting data, like you've  
11 said, is a start. But drawing  
12 conclusions therefrom -- and maybe that  
13 process of drawing conclusions therefrom  
14 needs to be internal, just for the point  
15 you raised that it's not always an  
16 easy -- it's not always an easy  
17 conclusion to draw.

18 So that goes to, again, the  
19 recommendation to improve data collection  
20 but without specifying how that data's  
21 going to be handled, because I think it  
22 depends on, A, what data we can get, and  
23 B, sort of how raw it is, so that you  
24 don't mislead. So I think those are good  
25 points.





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1 MS. SCHOLLETT: And I would just  
2 respond briefly to Jon that we are very  
3 clear we are not trying to insert some  
4 kind of intermediate appellate process  
5 but are just strongly recommending that  
6 we look at objective performance criteria  
7 and look at some of the models that have  
8 been set up in other states to do that.  
9 And we definitely included those in the  
10 comments as well.

11 So I just -- I do. I appreciate  
12 your point, and that isn't what this is.  
13 But for example, if we looked at our  
14 statewide protocol that requires judges  
15 to have a conversation with a victim  
16 before denying a final order, if that's  
17 not happening -- and that was a protocol  
18 that was created in a multidisciplinary  
19 sense like this -- that is something that  
20 we should be able to address as a group,  
21 whether that's (indiscernible) --

22 JUSTICE HANTZ MARCONI: Right. And  
23 updating protocols is important because,  
24 as we've learned from these discussions,  
25 the judges don't feel like maybe that is



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1       achievable because of the prohibition  
2       against assisting one side versus the  
3       other. So we've learned a lot that  
4       something that may work or is suggested  
5       at point 1 may, in reality, not bear out.

6               And so that's why I think there  
7       needs to be wiggle room so that pros and  
8       the experts can actually spend some time  
9       thinking about consequences and  
10      unintended consequences. So I think  
11      that's good.

12             DR. HAMPTON: I just wanted to toss  
13      in a comment about sort of why I think I  
14      was on this committee at all, and that  
15      has to do with trying to view things  
16      through the perspective of the abuser.

17             And it's sort of axiomatic in my  
18      work, where we look at all of our  
19      interventions and all the ways that we  
20      try and do the work with one question:  
21      is, what effect does this have on an  
22      abuser's inclination and opportunity to  
23      abuse.

24             And so a few reactions I had was  
25      just the fact of this committee, its



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1 willingness to look at a very difficult  
2 situation and then reflect upon itself, I  
3 think, is very hopeful.

4 Secondly, I think a lot of the  
5 recommendations that have come up are  
6 very well thought out and takes us a long  
7 way in that direction.

8 And thirdly, the comments that Lyn  
9 had, as I was reading those and I was  
10 thinking, okay, for each one of these  
11 adjustments, whether it's about  
12 transparency or it's about evaluations of  
13 judges or about looking at models from  
14 other states, each and every one of the  
15 edits or comments, I thought, went --  
16 took a significant step in reducing an  
17 abuser's inclination and opportunity to  
18 abuse. So I really like that kind of  
19 reflection.

20 The other thing I'm wondering about,  
21 too, is this task force does sort of  
22 officially go away at the end of this,  
23 and -- but we will be delivering  
24 recommendations. And I wonder if maybe  
25 one of the recommendations is that this



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1 committee reconvenes at a particular  
2 point. Why don't we just sort of weave  
3 that into it?

4 And one of the reasons I think that  
5 might be particularly helpful goes back  
6 to the Fatality Review Committee. And  
7 I'm bouncing all this credit over to  
8 Judge Carbon's way. In the formation of  
9 that committee, back in the late '90s,  
10 early -- around 2000, one of the things  
11 that we had a discussion about was how do  
12 we -- how do we develop a mechanism where  
13 people are comfortable sharing  
14 information.

15 We don't want it to be a finger-  
16 pointing thing. We don't want people to  
17 shut down. We don't want -- this is not  
18 about making people liable for past  
19 errors in judgment. And in one of the --  
20 and I think it -- I think we were really  
21 successful in creating an environment  
22 where we could do some productive work.

23 And one of the outgrowths of that  
24 was not just coming up with  
25 recommendations, but one of the charge --



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1 one of the things we put into each of our  
2 reports was an expectation that there  
3 would be a reporting back on the progress  
4 that was made or not made with regard to  
5 recommendations.

6 So we would have recommendations.  
7 We would list the agency or committee  
8 member that was responsible for making  
9 that happen. And then we would reconvene  
10 and ask people, okay, so what has  
11 happened with regard to those  
12 recommendations over the last three  
13 months, six months, or a year period.

14 So if we could put in a  
15 recommendation that this becomes an  
16 iterative process, rather than a singular  
17 report that people do or don't do with as  
18 they please, I think that would push us a  
19 lot further forward.

20 JUSTICE HANTZ MARCONI: It may be  
21 challenging to identify the responsive  
22 parties. I mean, obviously, some is the  
23 branch, and then some is not the branch,  
24 so -- but certainly, there's nothing  
25 wrong with recommending that we get back



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1 together and take stock of what's  
2 happened in the interim.

3 MS. PAINE: Your Honor, just in  
4 terms of process, so the working group  
5 will take the results of today's meeting  
6 and all the various comments and then  
7 finalize the report; am I correct?

8 JUSTICE HANTZ MARCONI: That's what  
9 we're going to try to do, yes. And that  
10 would be, again, comments due by  
11 tomorrow -- we may have them all, at this  
12 point -- and recirculate tomorrow or  
13 Thursday and get sort of some final say-  
14 so by the group --

15 MS. ZINKIN: I was going to say --

16 JUSTICE HANTZ MARCONI: -- and  
17 then --

18 MS. ZINKIN: -- likely recirculate  
19 Thursday.

20 JUSTICE HANTZ MARCONI: Yeah,  
21 Thursday. Yes, Anne. Thursday. Yes.

22 And then once we have general  
23 agreement, which I would get by email,  
24 unless y'all want to see each other's  
25 smiling faces again, we will let Susan



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1 Warner just make the thing look  
2 reasonable, in terms of, like -- I  
3 haven't paid attention to much of the  
4 cover and the graphics and that kind of  
5 thing because I've been focused on the  
6 guts.

7 So and then we'd be ready to present  
8 it to the branch, to the chief, on the  
9 1st. And then the question is if we want  
10 to have a public presentation, if you  
11 will, maybe on the 2nd. We can do that,  
12 or we don't have to. But it occurred to  
13 me that it might make sense to have a  
14 discussion with the members of the task  
15 force as to what we did and why we did it  
16 and what we're hoping comes from it.

17 I see rampant enthusiasm for that  
18 idea. I can also do that all by myself,  
19 if no one wants to show up.

20 MS. PAINE: Your Honor, do --

21 JUSTICE HANTZ MARCONI: Yes.

22 MS. PAINE: Do we have an agreement  
23 that -- or not, about inquiries from the  
24 press to anyone in particular, or flow  
25 through Susan, or anyone's in this group



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1 is, obviously, able to comment or --

2 JUSTICE HANTZ MARCONI: Just

3 (indiscernible) that --

4 MS. PAINE: -- just out of courtesy

5 and respect, I don't --

6 JUSTICE HANTZ MARCONI: We don't

7 have any sort of agreement or process.

8 And just as I sort of presumed and

9 encouraged people to share their work,

10 each one of you represents a whole crowd

11 of people behind you in this space. So

12 as I sit here today, unless I hear

13 differently, I don't mind or have any

14 restriction against anyone in the task

15 force speaking to their experience.

16 But if the task force would feel

17 more comfortable routing requests

18 through -- I don't know -- Susan Warner

19 or an individual person -- I won't say

20 Anne. She'll kill me. But routing it

21 through somebody, we can do that too, if

22 we want to filter. So don't know what

23 you think about that.

24 MS. LAFRANCE: I think as individual

25 members of the task force, if we're





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1 approached, we should be able to talk  
2 about our work, not any resolutions or  
3 anything like that, but certainly, our  
4 experience on it and just the general  
5 goals. We can cite the directive from  
6 the original directive and what the goals  
7 were.

8 I have a relationship with WMUR, so  
9 I don't -- they had called me, actually,  
10 originally, to comment on this before I  
11 was on the task force. So I think  
12 it's -- but if you prefer to have it go  
13 through somebody, I mean, I had  
14 anticipated most people would be putting  
15 it on their social media pages, too, to  
16 highlight the work they did, just to get  
17 the general public aware of it, so --

18 JUSTICE HANTZ MARCONI: Exactly. So  
19 I mean, your names are out there. And I  
20 think if someone wants to call you and  
21 ask you about it, that's perfectly fine.

22 INV. BERNIER: I'm not a big fan of  
23 big-group public things, but I think for  
24 this, I -- after the work that  
25 everybody's done, I think it would be



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1 something to think about to do something  
2 where the group could present it  
3 together.

4 I think it says something when you  
5 have all these people from all these  
6 different disciplines that are able to  
7 make these meetings and do the work that  
8 needed to be done. A ton of work went  
9 into it. A ton of thought went into it.

10 And I think it shows the public that  
11 there is a willingness for people to  
12 unify and work together and put their  
13 opinions on the table and come up with  
14 something that everybody can stick their  
15 name to in making things better.

16 And I think the group should be  
17 proud of that, and it sets an example  
18 that this type of thing can be  
19 accomplished, not just necessarily having  
20 it go out on the news as just a report  
21 but this particular group of people.  
22 It's an interesting concept and something  
23 that the public really doesn't know much  
24 about --

25 JUSTICE HANTZ MARCONI: Right.



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1 Okay.

2 INV. BERNIER: -- when it comes to  
3 these types of little task forces.

4 JUSTICE HANTZ MARCONI: And my  
5 thought is, too, it will enable us to  
6 help the different, again, involved  
7 agencies, if you will. It helps to -- I  
8 don't know -- set that next step. I  
9 mean, we know the limitations of this  
10 group. Now others have to act. And so I  
11 think that's a discussion that is worth  
12 having.

13 The folks who showed up at our  
14 public hearing, they are invested. There  
15 are people out there who are invested in  
16 what we come up with. So I think it  
17 makes sense to respond.

18 CHIEF HOBBS: Justice Marconi, what  
19 if when the report was finally -- was  
20 finalized, if a press release came from  
21 the courts, and then that -- if that was  
22 shared, referencing the final report,  
23 that would be something that we could  
24 all -- that press release is something  
25 that we could all share and generate that



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1 public -- start getting the word out?

2 And I think that's how you're going  
3 to see the changes is by getting the word  
4 out. So if there was a general --

5 JUSTICE HANTZ MARCONI: I think  
6 that's a great idea.

7 CHIEF HOBBS: -- press release.

8 JUSTICE HANTZ MARCONI: And maybe a  
9 combination of the two, a press release  
10 that everybody can share, and if we do  
11 have some people who want to get  
12 together, we can be there to answer  
13 questions.

14 And Kristyn says if we serve cake,  
15 everyone will show up. Very good.

16 So you want me to work on something,  
17 and if people can come, great, and if  
18 they can't, fine. But it'll just be an  
19 opportunity for if any media want to show  
20 up, if anyone cares, they can come and  
21 see what we did. Okay. I'll work on it.  
22 Maybe cake. I don't know.

23 All right. Anything else as we  
24 approach 5 o'clock? Not that we have a  
25 time limit, but feel free, if you get off



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1 this call and think of something else  
2 that you want to share and didn't, to  
3 share.

4 Any other thoughts about presenting  
5 this to the public, I'd love to hear.  
6 Any other thoughts about what needs to go  
7 into the report, we want to hear.

8 And again, it's not -- believe me,  
9 it's not me. I sound like it's me. It's  
10 not. We've had this working group and  
11 all you folks who are sounding boards and  
12 all these minutes that have been taken  
13 where we're really trying to coalesce the  
14 various perspectives. And so all we're  
15 doing is measuring it against what other  
16 people have said. So that's been the  
17 process.

18 And so anything else, send it in to  
19 the boiling-pot of report writing, and  
20 we'll figure it out.

21 Okay. Thank you very much. See you  
22 next time.

23 (End of audio)

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## 1 C E R T I F I C A T I O N

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3 I, Cheryl Odom, certify that the  
4 foregoing transcript is a true and  
5 accurate record of the proceedings.

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10 Cheryl Odom (CDLT-186)

11 TTA-Certified Digital Legal Transcriber

12

13 eScribers

14 352 Seventh Avenue, Suite #604

15 New York, NY 10001

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17 Date: March 22, 2022

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